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OPINION & ORDER  
[Resolving Doc. [33](#)]

<sup>2</sup> *Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993).

Case No. 14-cr-239  
Gwin, J.

Court in Case # CR-05-461329; and . . . Trafficking in Drugs in Cuyahoga County Common Pleas Court in Case # CR-08-516320.”<sup>3</sup>

The controlled substance offense, Trafficking in Drugs, is not affected by the *Johnson* decision because it was not classified as a crime of violence. Further, a closer examination of Thompson’s PSR reveals that he was sentenced for another controlled substance offense: Drug Possession (F-2) in Cuyahoga County Common Pleas Court in Case # CR-05-461329. Thus, regardless of whether or not the Failure to Comply with Order or Signal of Police Officer is no longer a crime of violence post-*Johnson*, Thompson’s guidelines calculation would not be affected because the pre-sentence report still lists two felony convictions for a controlled substance offense.

Thompson has not shown that he has a meritorious *Johnson* claim. He cannot demonstrate that his civil §2255 proceeding is an exceptional circumstance warranting appointment of counsel.

## II. Conclusion

For the reasons above, this Court **DENIES** Defendant’s motion seeking the appointment of counsel.

IT IS SO ORDERED.

Dated: March 23, 2016

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>3</sup> Presentence Investigation Report at ¶24.